

² The undersigned does not represent Defendant Rasidi Akodo, and as such, this Motion does not address the claims alleged against him in his individual capacity and for which he would be personally liable, more specifically, Counts VIII, IX, and X.

2. Even if the Plaintiff's claims are not time-barred, she has failed to state claims for "Sexual Harassment" and "Sex/Gender Discrimination and Harassment" under state and federal law (Counts I, II, IV, and V) upon which relief can be granted. More specifically, she has not pled facts sufficient to establish liability of Defendant Amherst Nursing Home, Inc., d/b/a Center for Extended Care at Amherst ("CECAA") for the acts of a non-supervisory coworker of the Plaintiff.
3. Additionally, the Plaintiff has failed to plead facts establishing that she is entitled to relief as to her claims for Sexual Harassment, Sex/Gender Discrimination and Harassment and Retaliation as to the Defendants (Counts I, II, III, IV, V, VI). Namely, the Plaintiff has failed to plead facts sufficient to establish a constructive discharge and, as such, lacks an essential element of her claims (adverse employment action).
4. As to the Plaintiff's claims against Defendant Keeran (Counts XI, XII), the Plaintiff has not met her burden of pleading facts to establish that she was subjected to an adverse employment action, an essential element of her claims. As such, she has failed to state a claim upon which relief can be granted as to Defendant Keeran and those claims should be dismissed.
5. The Plaintiff's common law negligence claim (Count VII) is barred by the exclusivity provisions of the Massachusetts Workers' Compensation Act (Mass. Gen. Laws ch. 152) and/or the Massachusetts Fair Employment Practices Act (Mass. Gen. Laws ch. 151B) and therefore, should be dismissed.
6. The Plaintiff has failed to plead facts establishing her entitlement to relief under Title VII (Counts I, II, and III) and Massachusetts General Laws Chapter 151B

(Counts IV, V, VI, XI, and XII), namely, that the Defendant CECAA is an employer which is subject to the requirements of those statutes.

7. The Plaintiff has failed to meet her burden of establishing this Court's jurisdiction over her claims brought under state law (Counts IV, V, VI, VII, XI, and XII).

For the foregoing reasons and those stated in the Defendant's Memorandum of Law in support of this Motion, the Defendants respectfully request that the Plaintiff's claims against them be dismissed in their entirety.

REQUEST FOR ORAL ARGUMENT

The Defendants, pursuant to L.R. 7.1(d), respectfully request oral argument on this Motion.

Respectfully submitted,

The Defendants,

AMHERST NURSING HOME, INC.
D/B/A CENTER FOR EXTENDED CARE
AT AMHERST, KEENA KEERNAN

By their Attorney,

/s/ Meghan B. Sullivan

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of August, 2014, I electronically filed the *Defendants Amherst Nursing Home, Inc. D/B/A Center for Extended Care at Amherst's and Keena Keernan's [sic] Motion to Dismiss* with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following registered participants:

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